



POLICE DEPARTMENT

August 9, 2022

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In the Matter of the Charges and Specifications	:	Case Nos.
- against -	:	2020-22897
Sergeant Harold Gates	:	2021-24282
Tax Registry No. 944587	:	
Housing PSA 4	:	

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At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Paul M. Gamble
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Jamie Moran, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: Rae Downes Koshetz, Esq.
929 Park Avenue
New York, NY 10028

To:

HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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CHARGES AND SPECIFICATIONS

Disciplinary Case No. 2020-22897

1. Said Sergeant Harold Gates, while assigned to PSA 4, and on-duty, on or about October 30, 2019, failed to obey a lawful order from New York City Police Lieutenant David Dejesus, Tax No. 934734, in that said Sergeant failed to report to the Lieutenant's office at the end of his tour of duty.

P.G. 203-03, Page 1, Paragraph 2

COMPLIANCE WITH
ORDERS

2. Said Sergeant Harold Gates, while assigned to PSA 4, and on-duty, on or about October 30, 2019, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant, while assigned as a Patrol Supervisor, was inside a room of PSA 4, alone with the lights off, not wearing his gun belt, without permission or authority.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT
PATROL SUPERVISOR

P.G. 202-17, Page 1, Paragraph 2

3. Said Sergeant Harold Gates, while assigned to PSA 4, and on-duty, on or about February 18, 2020, failed to properly supervise in that while assigned as a Patrol Supervisor, was observed alone inside a room in PSA 4 wearing civilian clothing and not equipped with a radio without permission or authority.

P.G. 202-17, Page 1, Paragraph 2

PATROL SUPERVISOR

4. Said Sergeant Harold Gates, while assigned to PSA 4, and on-duty, on or about February 19, 2020, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department in that said Sergeant failed to inform his direct supervisor that he received permission to leave early and did, in fact, leave early.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT

5. Said Sergeant Harold Gates, while assigned to PSA 4 and on-duty, on or about and between June 10, 2020, and June 11, 2020, on two occasions, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant was discourteous to Police Lieutenant Jeffrey Gurley, Tax No. 930288, in his words and tone (*As amended*).

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT

Disciplinary Case No. 2021-24282

1. Said Sergeant Harold Gates, while on-duty and assigned as the PSA 4, Desk Officer, on or about April 3, 2021, failed to enter pertinent vehicle information into the Domain Awareness System, as required.

P.G. 202-14, Page 3, Paragraph 16

DESK OFFICER

2. Said Sergeant Harold Gates, while on-duty and assigned to PSA 4, on or about June 9, 2021, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant, while assigned as a Patrol Supervisor, was inside PSA 4, not wearing his gun belt without permission or authority.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT
PATROL SUPERVISOR

P.G. 202-17, Page 1, Paragraph 2

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on July 20, 2022.

Respondent, through his counsel, entered pleas of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find Respondent Guilty in accordance with his pleas. I further recommend the forfeiture of 48 vacation days and a one-year period of dismissal probation.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent, who comes from a law enforcement family, became a Member of Service in 2007 after serving as an Assistant District Attorney in Kings County and a staff attorney for the former Speaker of the New York City Council (T. 14-16). He performed patrol duties in Midtown South and the 1st Precinct for approximately three years before being transferred to the Legal Bureau Civil Enforcement Unit; in 2014, he was promoted to sergeant (T. 19). He was

then assigned to PSA 1 as a Patrol Supervisor (T. 21). He was transferred to PSA 4 in September 2019 (Resp. Ex. 15).

Respondent testified that his father, a retired Member of Service, developed Lewy Body Dementia in the summer of 2017. He noticed a cognitive decline in his father beginning in 2014 when he began suffering memory loss and diminution in his agility and speech. According to Respondent, he became a caretaker for his father without assistance from his sister, who has her own family, or from his mother, from whom his father is divorced. Respondent is single and has no children. Respondent first purchased a home for his father in Pennsylvania, across the street from Respondent's aunt; she assisted Respondent in providing care for his father while Respondent worked. On Respondent's days off, he traveled to Pennsylvania to stay with his father. Because dementia caused his father to have irregular sleep patterns, Respondent's own health was negatively impacted. He first hired nurse's aides five days per week and then arranged for round-the-clock care. The out-of-pocket costs averaged approximately \$12,000 per month, the bulk of which was paid from his father's pension, with Respondent covering the remainder. Respondent also took family leave during this period (T. 22-24).

His father eventually had to be moved to an assisted care facility, where he remained for one year. He suffered several strokes and heart attacks before passing away on November 9, 2021. Respondent and his family were unable to schedule a funeral service until May 2022 because of COVID restrictions (T. 25-26).

A review of Respondent's performance evaluations shows a dramatic decline in performance in 2019, which continued into 2020, before improving in 2021 (Resp. Exs. 15, 16). In the view of the Tribunal, this professional decline appears to align with his father's physical decline.

PENALTY

In order to determine an appropriate penalty, this Tribunal, guided by the Department's Disciplinary System Penalty Guidelines, considered all relevant facts and circumstances, including potential aggravating and mitigating factors established in the record. Respondent's employment history was also examined (*see* 38 RCNY § 15-07). Information from Respondent's personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

Respondent, who was appointed to the Department on July 9, 2007, has pled guilty to: (1) two instances of failure to obey a lawful order; (2) three instances of failure to supervise; (3) being discourteous to a lieutenant; and (4) failure to make a required report. The Department Advocate has recommended the forfeiture of 60 penalty days and one-year dismissal probation. I believe a lesser penalty is warranted based on the record before me.

The presumptive penalty for failure to comply with a lawful order is 20 days, the aggravated penalty is 30 days, and the mitigated penalty is 15 days.

The presumptive penalty for insubordination is 20 days, the aggravated penalty is 30 days, and the mitigated penalty is 15 days.

The presumptive penalty for failure to supervise is 20 days, the aggravated penalty is 30 days, and the mitigated penalty is 15 days.

The presumptive penalty for failure to prepare a required report is five days, the aggravated penalty is ten days, and the mitigated penalty is three days.

Respondent's misconduct was serious and prejudicial to good order and discipline. Since he was in a supervisory role, every act of misconduct had the potential to affect the personnel at PSA 4. From his disrespect toward Lieutenant Gurley to his decision to take an unauthorized

respite rather than supervise his personnel in the field, his actions were unbefitting a uniformed supervisor.

Conversely, I find that Respondent's role as a caregiver for his father during the period of his diminished professional performance is a mitigating factor. The emotional impact of witnessing the decline of an aging parent need not be established through expert testimony. While it is disappointing that the effect of caring for a parent with dementia had a demonstrable impact on his professional performance, it is far from surprising.

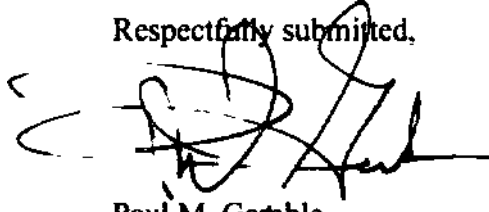
I had the opportunity to assess Respondent's demeanor as he testified before this Tribunal: I find his acceptance of responsibility genuine and heartfelt. The mortification he experienced in unequivocally admitting his guilt in public was palpable, and I find this to be another mitigating factor.

Counsel for Respondent has argued against the imposition of a monitoring period because of the potentially damaging effects upon Respondent's promotion opportunities. The Department Advocate has argued in favor of such a monitoring period while conceding that it is not presumptive under the Disciplinary Guidelines. Based on the facts in the record, I will impose such a monitoring period. I do so to provide an opportunity for Respondent to improve his professional performance to his pre-offense levels. Good order and discipline dictate that Respondent demonstrates to this Department that such flagrant on-duty misconduct is squarely in the past before moving forward in his career.

For the foregoing reasons, the Tribunal recommends that Respondent that be DISMISSED from the New York City Police Department, but that his dismissal be held in abeyance for a period of one year, pursuant to Administrative Code § 14-115(d), during which time he is to remain on the force at the Police Commissioner's discretion and may be terminated

at any time without further proceedings. I further recommend that Respondent forfeit 48 vacation days.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul M. Gamble", written over a horizontal line.

Paul M. Gamble
Assistant Deputy Commissioner Trials

APPROVED

A handwritten signature in black ink, appearing to read "Keechant L. Sewell", written over a horizontal line.

FEB 23 2023
KEECHANT L. SEWELL
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: SUMMARY OF EMPLOYMENT RECORD
SERGEANT HAROLD GATES
TAX REGISTRY NO. 944587
DISCIPLINARY CASE NOS. 2020-22897 & 2021-24282

Respondent was appointed to the Department on July 9, 2007. On his three most recent annual performance evaluations, he received a 4.0 rating of "Highly Competent" for 2018, a 3.5 rating of "Highly Competent/Competent" for 2019, and a 3.0 rating of "Competent" for 2020. He also received an interim performance evaluation of 2.5, "Competent/Below Competent" for the period spanning February 16, 2019 through August 13, 2019.

Respondent has been awarded two medals for Excellent Police Duty and one medal for Meritorious Police Duty.

Respondent has no formal disciplinary history.

For your consideration.

Paul M. Gamble
Assistant Deputy Commissioner Trials